



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-601
Regulation title	Supplemental Nutrition Assistance Program
Action title	SNAP Certification Periods
Date this document prepared	August 18, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

This regulatory action will create a new section, 22 VAC 40-601-70, which would require local social service eligibility workers to certify eligible households for SNAP benefits for no longer than six months. Recipient households would be required to reapply for benefits at the end of the certification period in order to receive benefits once the certification period expires.

Implementation of this regulatory action would result in SNAP households not having to file periodic reports during the certification period, as is mandated by federal regulation if a SNAP household is certified for more than six months. Recipient households would, however, be required to file applications to renew their SNAP eligibility before the end of the certification period.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 63.2-217 of the Code of Virginia (Code) grants authority to the State Board of Social Services (Board) to promulgate rules and regulations to operate assistance programs in Virginia.

Additionally, 7 C.F.R. § 271.4 delegates responsibility to administer SNAP within a state to the agency assigned responsibility for other federally funded public assistance programs; 7 C.F.R. § 273.12 requires households to file periodic reports if they are certified for longer than six months.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The intent of this regulatory action is to (1) eliminate the need for the LDSS to send an interim or periodic report form, (2) eliminate the need for the LDSS to evaluate completed reports, and (3) eliminate the need for the LDSS to close cases due to the recipient’s failure to return the completed report.

This regulatory action will set at six months the maximum certification period for households eligible for SNAP benefits in order to avoid periodic reporting requirements mandated by federal regulation. SNAP households that are certified for six months or less are not federally required to file periodic reports during the certification period.

This proposed regulatory action, which will have the effect of avoiding interim reporting and impose in its place the requirement to file an application to renew eligibility before the certification period expires, will shift work requirements for local department of social services (LDSS) staff. Recipient households will be required to file applications to renew their eligibility. Households that timely reapply and provide requested information will experience no disruption in receipt of benefits. The failure to reapply for benefits before the certification period expires, however, will result in a disruption or delay of benefits. Households will be notified of the need to file an application the month before the certification period expires. Households may apply for benefits by mail, online, or in person at the LDSS.

Eligible households will continue to receive the same amount of SNAP benefits if this proposed regulatory action is implemented, provided they reapply for benefits timely. This amendment will not affect the health and safety of Virginia citizens.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

This regulatory action would create a new section, 22 VAC 40-601-70, that would allow local eligibility workers to assign a maximum certification period of six months for all applicants for SNAP benefits; the maximum certification period for all other SNAP recipients would also be six months. Eligibility workers may assign a certification period of less than six months if individual household circumstances are subject to uncertainty. Eligibility workers must notify households if an interview will be conducted at the same time households are advised that the certification period will expire at the end of the next month. Eligibility workers may determine eligibility and benefit amounts for households based on the application and supporting documents - without conducting interviews - for alternating certification periods. An eligibility interview is required at least once during a 12-month period.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Federal regulations allow SNAP households to have a maximum certification period of 24 months for households in which adult members are all elderly or disabled, or 12 months for other households. Federal regulations also require that households that are assigned certification periods longer than six months must file a report of their circumstances during the certification period if the households are under a simplified change reporting system.

The Department of Social Services (DSS) uses the simplified change reporting system. This regulatory action would limit the SNAP certification period to six months and avoid the interim reporting process that is required by a longer eligibility period.

Since 2003, DSS has operated under simplified change reporting, 12- or 24-month certification periods, and a requirement for household to file an interim report.

Only one alternative remains other than (1) 12-month periods and an interim report, or (2) six-month periods and more frequent reapplication for benefits. The alternative would be to allow each LDSS to select one of those two options annually. As cases transfer from one locality to another, however, eligibility workers would be required to operate a system for a few cases that is different from case actions required for the rest of their caseload. For this reason, this option is least preferred.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

DSS is seeking comments on the intended regulatory action, including but not limited to (1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives, and 3) potential impacts of the regulation. DSS is also seeking information on impacts on small businesses as defined in § 2.2-4007.1. Information may include (1) projected reporting, recordkeeping and other administrative costs, (2) probable effect of the regulation on affected small businesses, and (3) a description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail, email, or fax to Celestine Jackson, Virginia Department of Social Services, Division of Benefit Programs, 801 E. Main Street, Richmond, Virginia 23219; (804) 726-7376; FAX (804) 726-7357; celestine.jackson@dss.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will not be held.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

DSS has sought guidance from a subcommittee of the Benefit Programs Organization (BPRO) of Virginia, an organization open to local eligibility workers and supervisors of every locality. BPRO currently has approximately 1000 members. DSS is committed to using the participatory approach in the development of the proposal.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action does not strengthen or erode the nurturing relationship between parents and children, alter the rights of parents to direct the education or supervision of children, alter responsibility for oneself or family, or affect marital commitment. It neither encourages nor discourages economic self-sufficiency or self-pride.

This regulatory action does not change the standards for determining which households are eligible for SNAP benefits. The proposed regulatory action may indirectly affect the amount of benefits households are entitled to receive and could indirectly alter disposable family income. The amount of benefits a household receives helps to supplement the amount of money available for food purchases.

The proposed regulatory action encourages personal responsibility, as households must file applications for renewal of benefits. Renewing households will receive benefits assigned for the full month if the household reapplies for benefits before the certification period expires. If households file the renewal application during the month after the certification period has expired, benefits will be prorated based on the date the application is filed.